**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Cr.Misc. No.39220 of 2005**
**SITA RAM YADAV**
**Versus**
**STATE OF BIHAR & ANR**
**----------**

9. 21.7.2008. Heard Mr. Chitranjan Sinha, Senior Advocate, the learned counsel for the petitioner, Mr. Mayanand Jha, the learned counsel for the State and Mr. Rabindra Nath Dubey, the learned counsel for O.P. No.2.

Through this application the petitioner prays for quashing of order dated 23.9.2004 passed by the learned Sessions Judge, Sitamarhi in Criminal Revision No.143 of 2004 whereby while dismissing the revision petition preferred by the petitioners herein, he has upheld the order dated 6.5.2004 passed by the learned Judicial Magistrate, Pupri at Sitamarhi in Complaint Case No.8 of 2004 whereby cognizance has been taken under Sections 147/323/379 I.P.C. as also Sections 3(iv)(x) of the Scheduled Castes and Scheduled Tribes Act(hereinafter referred to as the "SC/ST Act").

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It has been submitted by the learned counsel for the petitioner that the learned Magisterial Court had erred in taking cognizance as no document by the complainant showing his possession over the lands in question had been filed along with the complaint petition or at any time thereafter and the learned Revisional Court had erred in upholding the order. It has also been submitted that there was nothing on record to show that the lands in question had been settled in favour of the complainant that he had grown crops over the same which are alleged to have been cut by the petitioner herein.

Be that as it may, from a perusal of the complaint petition as also the order taking cognizance, it appears that the offences under the SC/ST Act do not appear to have been made out and so far as the offences under the Penal Code are concerned, it will be open to the petitioner to raise all these issues at the time of framing of charge since this Court in exercise of powers under Section 482 Cr.P.C. cannot look into the disputed questions of facts.

Accordingly, the application is allowed in part inasmuch as cognizance taken in respect of offences under the SC/ST Act not appearing to have been made out is quashed but so far as the offences under the Penal Code are concerned, the petitioners are given liberty to raise all these issues at the time of framing of charge and in the event of such issues being raised, the learned court below will act in accordance with law.

With the aforesaid observations, this application is disposed of.

Since this case appears to be of the year 2004, it is expected that the learned court below will proceed with this case expeditiously.

**(Abhijit Sinha,J)**

**P.S.**

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